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**NEWS**  
**MILFORD FRYER**

**Environmental justice leaves cloudy haze over issues**  
**MILFORD FRYER**

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As illustrated in a series of articles in The Advocate last week, the issue of environmental justice is extremely nebulous.

Being nebulous doesn't mean it isn't important, though. But the slipperiness of the issue makes exercising care in applying environmental justice to real issues more important.

Can locating a plant near a poor or minority community be a case of environmental justice if the plant is being located there primarily for other reasons such as availability of land, its relation to transportation, availability of raw materials or process ingredients or related issues?

President Clinton, in an executive order to agencies under his direction, suggested the agencies rely on Title VI of the Civil Rights Act in determining whether environmental injustice is involved. Title VI, which applies to discrimination against minorities, says the discrimination need only be effectual, regardless of whether it is intentional.

But since applying environmental justice standards is not codified into law, applying Title VI strictly may not be possible. For one thing, poor whites would have a difficult time using Title VI for relief.

Should plants be prohibited from locating in the already established industrial corridor between Baton Rouge and New Orleans when so many other plants already exist and the river frontage is ideal for plant locations? The issue deserves serious consideration.

Many issues will no doubt be predictably muddled. Environmentalists will claim the siting of a plant constitutes environmental injustice, plant officials will emphatically declare that the status of nearby residents had nothing to do with the location.

In some cases they both may be right.

Environmental justice is fairly new as a formal consideration, but it has been around for years, waiting for someone to give it a name.

Most cases aren't nearly as clear as the one in Los Angeles in 1984 in which the city's waste management board wanted to build an incinerator. The board's consultant minced no words.

"Although environmental concerns cut across all subgroups, people with a college education, young or

middle-aged, and liberal in philosophy are most likely to organize opposition to the siting of a major facility," the consultants said.

Their conclusion: give higher priority to heavily industrialized sites in "lower socioeconomic neighborhoods."

While many companies may have avoided spelling the issue out so blatantly, no doubt many companies considered the probability of opposition in locating their plants.

To many people, an environmental injustice may be like the late U.S. Supreme Court Justice Potter Stewart wrote in an opinion he issued in an obscenity case in 1964 when the court overturned the conviction of a theater manager for showing a movie that prosecutors considered obscene.

In Stewart's concurring opinion, he said only hard-core pornography would lose the constitutional protection of freedom of expression. He said he might never succeed in intelligently defining hard-core pornography "but I know it when I see it, and the motion picture involved in this case is not that."

Environmental justice needs better definition than that, but definition remains difficult. Ostensibly, it means steamrolling people without the standing to fight back.

All other things being equal, companies will still likely locate their plants near low-income neighborhoods instead of risking the wrath of the affluent or politically savvy.

Without the force of law, the determination of which cases involve environmental injustice will be left to bureaucrats given the task of issuing permits. Also, without the force of law, the next president may simply decide the issue is moot.

Even so, the issue isn't likely to go away or become simpler.

Milford Fryer is the Suburban editor

for The Advocate

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